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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

MAGIC LEAP, INC.,

Plaintiff,

v.

CHI XU, an individual; HANGZHOU TAIRUO  
 TECHNOLOGY CO., LTD., d/b/a NREAL,

Defendants.

Case No. 5:19-cv-03445-LHK

**JOINT CASE MANAGEMENT STATEMENT**

Date: June 17, 2020  
 Time: 02:00 p.m.  
 Place: San Jose Courthouse,  
 Courtroom 8 – 4th Floor  
 Judge: Honorable Lucy H. Koh

Plaintiff Magic Leap, Inc. (“Magic Leap” or “Plaintiff”) and Defendants Chi Xu (“Xu”) and Hangzhou Tairuo Technology Co., Ltd., d/b/a Nreal<sup>1</sup> (“Nreal”) (collectively, “Defendants”; together with Plaintiffs, the “Parties”) submit this Joint Case Management Statement pursuant to Civil Local Rule 16-10 and the Court’s January 13, 2020 Case Management Order, continuing the case management conference from January 15, 2020 to June 17, 2020 (Dkt. No. 36).

<sup>1</sup> Defendant Hangzhou Tairuo Technology Co., Ltd. has been officially succeeded by a different entity, Shenzhen Tairuo Technology Co., Ltd.

1           **1.       Procedural Update**

2           Since the Parties filed their Rule 26(f) Report on January 8, 2020 (Dkt. No. 33), they have  
3 completed the briefing on Defendants' Motion to Dismiss, filed December 16, 2019 (Dkt. No. 22).  
4 Magic Leap filed its opposition on January 30, 2020 (Dkt. No. 37), and Defendants filed their reply  
5 on February 27, 2020 (Dkt. No. 39). The hearing on the Motion to Dismiss was originally set for April  
6 30, 2020, but on March 20, 2020, the Court vacated the hearing and took the Motion to Dismiss under  
7 submission. (Dkt. No. 41.)

8           The Parties have also exchanged initial disclosures pursuant to Rule 26(a)(1) of the Federal  
9 Rules of Civil Procedure ("Rules"), and Magic Leap has subsequently supplemented its initial  
10 disclosures following meet and confer between the Parties regarding the applicability of California  
11 Code of Civil Procedure ("CCP") § 2019.210 to this action. It is Magic Leap's position that its  
12 amended initial disclosures identify the precise confidential project code names and corresponding  
13 document file names of the "Confidential Designs" referenced in the Complaint and that this  
14 disclosure would satisfy the "reasonable particularity" standard of § 2019.210. Magic Leap  
15 additionally agreed to produce the underlying files referenced in its disclosures within a reasonable  
16 time upon the Court's entry of a Protective Order. It is Defendants' position that Magic Leap has not  
17 provided a § 2019.210 disclosure, which is subject to statutory requirements as well as interpretation  
18 under an established body of case law. Moreover, even if they were provided as a § 2019.210  
19 disclosure, Defendants contend that Magic Leap's amended initial disclosures are deficient for a  
20 number of reasons, including, but not limited to: 1) many of the 13 "confidential project code names"  
21 are common terms and provide no indication of what Magic Leap contends is confidential or trade  
22 secret, 2) Magic Leap has not produced the files in connection with the "corresponding document file  
23 names," and 3) Magic Leap has not identified what in any such files is confidential or trade secret.

24           **2.       Discovery Update**

25                   **(a)     Dispute Regarding Jurisdictional Discovery**

26           On December 30, 2019, the Court ordered that "discovery, jurisdictional or otherwise, will not  
27 be stayed in the instant case." (Dkt. No. 24.) On January 15, 2020, Magic Leap served jurisdictional  
28 discovery on Nreal, seeking information about its contacts with, and promotional efforts aimed at,

persons and entities in California and elsewhere in the United States. Nreal provided its responses and objections on March 10, 2020 (following two extensions in light of the coronavirus pandemic, which was centered in China at the time). The Parties subsequently met and conferred in writing and telephonically regarding Nreal's objections and were able to narrow all but three of their disputed issues. On May 1, 2020, Magic Leap moved to compel, by way of a joint discovery statement, regarding (1) the applicability of CCP § 2019.210 to this action, and the validity of Nreal's objections to the jurisdictional discovery on that basis; (2) the relevance of information regarding Nreal's contacts with the forum subsequent to the filing of the Complaint, and (3) the breadth of one interrogatory, including whether the narrowed scope agreed to by Plaintiff should count as a new interrogatory against Plaintiff. (Dkt. No. 43.)

**(b) Dispute Regarding Protective Order**

On January 23, 2020, Magic Leap sent Defendants a draft Protective Order. The Parties engaged in a telephonic meet and confer on February 18, 2020 regarding the terms of the Protective Order. Defendants provided Plaintiffs their edits to the Protective Order on March 27, 2020. The Parties subsequently met and conferred again regarding the terms of the Protective Order, and were able to reach agreement on all but one issue: whether Designated In-House Counsel of the Parties should have access to materials designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" ("AEO Information") under the Protective Order. Accordingly, on April 29, 2020 the Parties filed a Joint Statement Regarding the Parties' Request for Entry of a Protective Order, presenting separate positions and proposed orders on the disputed in-house counsel issue. (Dkt. No. 42.)

On May 8, 2020, Magistrate Judge van Keulen noticed a hearing for May 19, 2020, to address the Parties' discovery disputes to date. (Dkt. No. 44.)

**(c) May 19, 2020 Discovery Hearing**

On May 19, 2020, the Court held a telephonic hearing on the Parties' discovery disputes described above. With regard to the Protective Order, the Court ordered the Parties to meet and confer and submit a revised Protective Order that allows for the designation of one in-house counsel to have access to AEO Information, provided that the in-house counsel execute a declaration and comply with

1 certain requirements and procedures outlined in the revised Protective Order, subject to objection by  
2 the other side. (Dkt. No. 45.)

3 With regard to the jurisdictional discovery, the Court held as follows. First, with respect to  
4 Nreal's objections based on CCP § 2019.210, the Court ordered Nreal to respond to the relevant  
5 jurisdictional discovery requests by "providing 'confidential' information as necessary but without  
6 providing detailed technical information." (*Id.*) Second, the Court sustained Nreal's objections to the  
7 extent the discovery requests seek information after the date the complaint was filed. The Court  
8 ordered Nreal to provide the information requested by Magic Leap as of June 17, 2019. (*Id.*) Third,  
9 the Court revised the scope of the disputed interrogatory and allowed Magic Leap to substitute it in  
10 place of the original. (*Id.*)

11 On May 29, 2020, pursuant to the Court's Order Regarding Discovery Disputes (*id.*), the  
12 Parties filed a [Proposed] Stipulated Protective Order (Dkt. No. 51), as well as a [Proposed] Stipulated  
13 Order in Discovery of Electronically Stored Information (Dkt. No. 52). Both Orders were entered on  
14 June 1, 2020. (*See* Dkt. Nos. 53, 54.)

#### 15 (d) Other Discovery

16 On April 3, 2020, Magic Leap served its first set of document requests on Defendants, its first  
17 set of Interrogatories on Defendant Xu, and its second set of Interrogatories on Defendant Nreal.  
18 Defendants provided their responses and objections on May 18, 2020. Magic Leap intends to meet  
19 and confer regarding Defendants' objections, which include objections based on Defendants'  
20 contention that Magic Leap has not provided a disclosure pursuant to CCP § 2019.210. In light of  
21 this, the Parties anticipate the need to bring the CCP § 2019.210 issue before the Court.

### 22 3. Settlement and ADR

23 On May 21, 2020, pursuant to the Court's Case Management Order (Dkt. No. 36), the Parties  
24 engaged in a private mediation before the Honorable Elizabeth D. Laporte. The Parties were unable  
25 to settle the case.

### 26 4. Scheduling

27 At this time, the Parties have no proposed changes to the schedule set by the Court in its Case  
28 Management Order (Dkt. No. 36). The Parties are open, however, to any modifications the Court may

1 deem necessary in light of the coronavirus pandemic and resulting court closures.

2  
3 Dated: June 10, 2020

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17 **ATTESTATION**

18 I attest that, under Civil Local Rule 5-1(i)(3), I have obtained concurrence in the filing of this  
19 document from all Signatories.

20 Dated: June 10, 2020

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